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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA NASH,
Plaintiff,

vs.

BAY AREA RAPID TRANSIT
DISTRICT, DOES 1-40,
Defendants.

No. C 05 5307 VRW

JOINT APPLICATION AND
STIPULATION FOR CASE TO BE
REOPENED, AND TRANSFERRED TO
MAGISTRATE JUDGE BRAZIL TO
SUPERVISE THE SETTLEMENT

The parties reached an oral settlement on February 19, 2008 at a settlement conference with Magistrate Judge Brazil, but the agreement was not reduced to writing or spoken onto the record at that time. In the meantime the attorneys for both parties have been working on a draft of a formal Release and Settlement Agreement. The BARTD Board of Directors also has this matter under review. This settlement is subject to approval by the BARTD Board.

Judge Walker issued an Order of Dismissal on February 22, 2008, which stated in part:

"... if any party hereto shall certify to this court, within 90 days, with proof of service of a copy

1 thereof, that the agreed consideration of said
2 settlement has not been delivered over, the foregoing
3 order shall stand vacated and this cause shall
 forthwith be restored to the calendar to be set for
 trial."

4 Plaintiff filed a *Notification that Consideration for the*
5 *Settlement has not Been Received* on May 20, 2008 asking the
6 court to vacate the dismissal on the ground that the monetary
7 consideration for the settlement had not yet been received, and
8 stating that part of the settlement involved installing a
9 between-car barrier system on every BART car which would take
10 five years to complete, so the complete consideration would not
11 be received until July of 2013.

12 The Notification also stated that both parties desired some
13 type of court supervision of the injunctive relief portion of
14 the settlement, preferring either Judge Walker or Magistrate
15 Judge Brazil be designated as the supervising judge(s), and
16 suggested that a conference call with either judge would be
17 helpful to understand the procedure for doing this.

18 On May 30, the parties' attorneys held a conference call
19 with Judge Brazil, who said he was willing to undertake the
20 supervision and suggested that his department might have more
21 time than Judge Walker's to retain a case like this for several
22 years. He suggested that if the parties wished to use his
23 department, they should stipulate to his jurisdiction as the
24 District Court judge for all purposes, and request Judge Walker
25 to vacate the dismissal order and refer the case to him.
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1 The parties hereby so stipulate and apply to Judge Walker
2 to vacate his dismissal order and refer the case to Magistrate
3 Judge Brazil for all purposes.

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6 DATED: June 9, 2008

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8 By: 

RICHARD L. KASHDAN
Attorney for Plaintiff
Patricia Nash

9
10 DATED: June 18, 2008

11
12 By: 

MARK HAZELWOOD
Attorney for Defendant BARTD